

MORTGAGE PURCHASE AND SERVICING GUIDE

ARTICLE I

DEFINITIONS

“*Acquisition Cost*” shall mean the cost of acquiring a Residence from the seller as a completed Residential unit. Acquisition Cost includes the following:

(a) All amounts paid, either in cash or in kind, by the Mortgagor (or a related party or for the benefit of the Mortgagor) to the seller (or a related party or for the benefit of the seller) as consideration for the Residence;

(b) If a Residence is incomplete, the reasonable cost of completing the Residence whether or not the cost of completing construction is to be financed from the Mortgage Loan. For example, where a Mortgagor purchases a building which is so incomplete that occupancy is not permitted under local law, the Acquisition Cost includes the cost of completing the building so that occupancy is permitted; and

(c) Points, if charged by Participant, to both buyer and seller.

The term “Acquisition Cost” does not include the following:

(a) The usual and reasonable settlement or financing costs. Settlement costs include title and transfer costs, title insurance, FHA or PMI mortgage insurance premium, RD guarantee fee, VA guarantee fee, survey fees or other similar costs. Financing costs include credit reference fees, legal fees, appraisal expenses or other costs of financing the Residence. However, such amount will be excluded in determining Acquisition Cost only to the extent that the amount does not exceed the usual and reasonable costs which would be paid by the buyer where financing is not provided through a qualified mortgage bond issue. For example, if the purchaser agrees to pay to the seller more than a pro rata share of property taxes, such excess shall be treated as part of the Acquisition Cost of a Residence;

(b) The value of services performed by the Mortgagor or members of the Mortgagor’s family in completing the Residence. For purposes of the preceding sentence, the family of an individual shall include only the individual’s brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants. For example, where the Mortgagor builds a home alone or with the help of family members, the Acquisition Cost includes the cost of materials provided and work performed by subcontractors (whether or not related to the Mortgagor) but does not include the imputed cost of any labor actually performed by the Mortgagor or a member of the Mortgagor’s family in constructing the Residence. Similarly, where the Mortgagor purchases an incomplete Residence the Acquisition Cost includes the cost of material and labor paid by the Mortgagor to complete the Residence but does not include the

imputed value of the Mortgagor's labor or the labor of the Mortgagor's family in completing the Residence; and

(c) The cost of land which has been owned by the Mortgagor for at least two years prior to the date on which construction of the Residence begins.

"Act" shall mean the Housing Act of 1975, constituting Sections 90-6-101 through 90-6-127, inclusive, and Section 2-15-1814, Montana Code Annotated, as it now exists and as it may be amended or supplemented.

"Cancellation Fee" shall mean the fee, if any, as set forth in the Notice of Acceptance, charged by the Board if a Participant cancels a Mortgage Loan Reservation.

"Federal Eligibility Requirements" shall mean the requirements set forth in Section 2.05 hereof and, with respect to Qualified Rehabilitation Loans, Section 2.05.1 hereof.

"FHA" shall mean the Federal Housing Administration.

"Invitation to Participate" shall mean a letter from the Board to Participants specifying (i) the maximum interest rate and minimum purchase price for Mortgage Loans, (ii) the reservation fee payable by the Participant, if any, (iii) the maximum points, if any, which may be charged to the seller or Mortgagor of a Residence, and (iv) the term of the Mortgage Loans.

"Loan Discount Fee" shall mean a percentage of the principal amount of the Mortgage Loan as set forth in the Notice of Acceptance.

"Mortgage" shall mean an FHA-, RD-, VA-, or Private Mortgage Insurance approved instrument in the form of a trust indenture in conformity with the Small Tract Financing Act of Montana, Sections 71-1-301 through 71-1-321, both inclusive, Montana Code Annotated, creating a first lien on real property in the State and incorporating the Board's Uniform Rider to the Trust Indenture annexed hereto as Exhibit B, or such other type of instrument securing a Mortgage Loan as may be specifically approved by the Board for special programs.

"Mortgage Loan" shall mean a loan secured by a Mortgage.

"Mortgage Loan Reservation/Confirmation Report" shall mean a request, on a form to be provided by the Board, by a Participant for a reservation from the Board to purchase Mortgage Loans in accordance with Section 2.01 of this Guide.

"Mortgage Purchase Date" shall mean the date of payment by the Board for a Mortgage Loan purchased hereunder.

"Mortgagor" shall mean the debtor under a Mortgage Loan.

“Notice Address” means:

(a) As to the Board:

301 S Park
Post Office Box 200528
Helena, MT 59620-0528

(b) As to the Participant, the address shown on the Annual Officer’s Certificate of Mortgage Lender.

“Notice of Acceptance” shall mean the form of notice by which a Participant is notified of (i) the interest rate, (ii) the purchase price for Mortgage Loans, (iii) permissible “points” or other charges to the seller or Mortgagor of a Residence and (iv) the delivery period during which such loans are to be originated and sold to the Board.

“Origination Fee” shall mean a specified percentage of the principal amount of the Mortgage Loans, as set forth in the Notice of Acceptance.

“Participant” means banks, trust companies, savings and loan associations, mortgage bankers and other financial institutions authorized to transact business in the State and deemed eligible by the Board to participate as sellers of Mortgage Loans to the Board and/or to service Mortgage Loans for the Board and also includes the Board to the extent permitted by law.

“PMI” shall mean Private Mortgage Insurance on conventional mortgage loans from a Board approved provider.

“Qualified Rehabilitation Loan” means a Mortgage Loan meeting the requirements specified in Section 2.05.1 of this Guide.

“RD” shall mean the Rural Development as established under the United States Department of Agriculture (formerly, the Farmers Home Administration).

“Reservation Fee” shall mean a percentage of the Mortgage Loan Reservation Amount as set forth in the Notice of Acceptance which may be drawn on the account of the Participant and made payable to the Board.

“Residence” shall mean a single-family, owner-occupied home together with the land on which it is located in the State and shall include stock held by a tenant-stockholder in a cooperative housing corporation. The Residence must have an economic life at least equal to the initial term of the Mortgage Loan. The term “Residence” also includes factory-made housing which is permanently affixed to real property owned by the Mortgagor. The determination of whether factory-made housing is permanently affixed to real property shall be made on the basis of the facts and circumstances of each particular case. Land appurtenant to a Residence shall be considered as part of the Residence only if such land reasonably maintains the basic

livability of the Residence and does not provide, other than incidentally, a source of income to the Mortgagor. The size of the land shall not be more than allowed in the Small Tract Financing Act and in no case can the value of the land financed exceed 35% of the Mortgage Loan, except under limited circumstances permitted by the Board (see Exhibit O hereto); a Mortgage Purpose Survey will not be accepted. A Residence shall contain not more than one dwelling unit and may be a condominium unit in a structure containing multiple dwelling units. The Mortgagor shall own the Residence in fee simple; no leasehold interests will be purchased.

“*Rules*” shall mean the program rules of the Board comprising Sections 8.111.101 through 8.111.409, both inclusive, of the Administrative Rules of Montana, as the same may be supplemented or amended from time to time.

“*Servicing Fee*” shall mean a percentage of the outstanding principal amount of the Mortgage Loan which the Participant receives as compensation for its servicing activities, as specified in the Notice of Acceptance.

“*State*” shall mean the State of Montana.

“*Targeted Area*” shall mean an area so designated by the Board in accordance with the Act and the Rules and as listed on Exhibit G hereto.

“*VA*” shall mean the Department of Veterans Affairs (formerly the Veterans Administration).